GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Illa Varah Narasimha Murthy, S/o Surya Rao, Occ: Chargeman, Maintenance M/s Petroleum Corporation Ltd., Visakhapatnam Refinery, against the proceedings No. (M) R. Dis. No.2093/2014/C5, dated 08.01.2017 of the District Collector, Visakhapatnam, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.85 Dated: 08.06.2018
Read the following:

1. Proceedings of the District Collector, Visakhapatnam, (M) R. Dis. No.2093/2014/C5, dated 08.01.2017.
2. Appeal Petition filed by Sri Illa Varah Narasimha Murthy, S/o Surya Rao, Occ: Chargeman, Maintenance M/s Petroleum Corporation Ltd., Visakhapatnam, dated 25.01.2017 & received by the Governement on 30.01.2017.
3. Appeal Petition filed by Sri Illa Varah Narasimha Murthy, S/o Surya Rao, Occ: Chargeman, Maintenance M/s Petroleum Corporation Ltd., Visakhapatnam, before the M(SWE&TWE), Endt.No.111/M(SWE&TWE), dated 07.02.2017.
4. Govt. Memo No.470124/CV.2/2017, dated 08.02.2017.
5. From the District Collector, Visakhapatnam, Lr. (M) Rc.No.1886/2017/C5, dated 08.02.2018.
6. Govt. Memo No.470124/CV.2/2017, dated 26.04.2018.

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ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders cancelling ST-Konda Kapu caste certificate obtained from the then Assistant Director of District Survey and Land Records, Visakhapatnam in the year 1984 by Sri Illa Varah Narasimha Murthy S/o Surya Rao.

2. In the references 2nd & 3rd read above, Sri Illa Varah Narasimha Murthy S/o Surya Rao, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Visakhapatnam and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 4th read above.

3. In the reference 5th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Illa Varah Narasimha Murthy S/o Surya Rao.

4. The said Appeal Petition has been posted for hearing on 19.05.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant have attended the hearing scheduled on 19.05.2018 before the Appellate Authority and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam dated: 08.01.2017 the Appellate Authority is observed that :

I. The appellant in his grounds has stated that his forefathers hails from the agency area of Godavari District and his father belongs to ST- Konda Kapu

[P.T.O]

community and native of 'Lagarai' village of Rajavommangi Mandal, East Godavari District and born in the year 1934, in the said village and his father maintained his livelihood, shifted several places in the Andhra Pradesh . (in the combined State). He has also stated that his father worked in the State Government as Draughtsman in Survey and Land Records Department in Revenue Department under the ST-Konda Kapu category and his family members also belongs to ST-Konda Kapu community. Further he has also stated that his maternal grandfather (late Sri Boddu Appa Rao's), who is elder brother of late Boddu Veeraju belongs to ST-Konda Kapu community and further he has stated that the Government have uphold the ST-Konda Kapu social status of Sri Boddu Veeraju and (21) others, residents of 'Lagarai' village of Rajavommangi Mandal, East Godavari District vide G.O.Ms.No.21, S.W.(CV.2) Department, dated 29.01.2014. The District Collector failed to see the transfer certificate issued by the Head Master of Pitapuram Raja's Collegiate School, Kakinada dated 11.03.1950 to his father late Sri I.Surya Rao and in the said certificate the social status of his father indicates as Konda Kapu.

II. The appellant has also stated that as per G.O.Ms.No.880, Employment and Social Welfare (E) Department, dated 17.10.1975, all the Gazetted Officers of the Government are competent to issue social status certificates to the candidates belonging to the SC., ST. and Backward Classes in the matter of appointment to the service, admission &educational institutions and for getting scholarship and other concessions, and the said G.O., was inforce in relation to the issuance of SC/ST Caste Certificates, it was not annulled by 1997 SC/ST ACT, it is only suppressed by the later Act. Therefore, the certificate dated 10.10.1984 issued by Asst. Director was perfectly Legal, within Competency and Authority and District Collector overlooked this Legal Position, therefore his Notification required to be nullified.

III. The District Level Scrutiny Committee has observed that according to the regular scenario of the functions of the Government offices / Tahsildar offices every certificate issued by the office should mention reference number or serial number. But, as seen from the caste certificates produced by the appellant pertaining to his father and himself, it is observed that they were not having any file reference numbers. As seen from the certificate issued by the Assistant Director, Survey and Land Records, Visakhapatnam mentioned in the year 10.X.1984, it is observed that, in the certificate there is clearly mentioned the list of authorities empowered to issue the said certificate. In the said list the name of the Assistant Director, Survey and Land Records has not mentioned. Further he has obtained the caste certificates only in the years 2012 & 2014 from their native Mandal after lapse of 34 years and from 1978 to 2012, Sri Illa Varaha Narsimha Murthy did not get any certificate from his original place Rajavommangi Mandal. If he is a native of Langarai (V), Rajavommangi he could have obtain certificate from his native place, but not from different authorities of different places. After 2003, as per the Scheduled Castes and Scheduled tribes orders (Amendment) act, 2002, Act No.10 of 2003, Kondakapu-ST certificate should be issued by Revenue Divisional Officer/Sub Collector or Assistant Collector concerned in non-scheduled areas. Basing on this it is observed that, the individual Sri Illa Varaha Narsimha Murthy intentionally not obtained the caste certificate from proper authority. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority has observed that during the course of arguments, the appellant submitted his arguments that his father, paternal and maternal side relatives are belongs to ST Kondakapu community as such he is also same

[Contd..on P.3]

community and in the school certificates of him clearly shows that he is Kondakapu as such on that scores he is able to prove his caste is ST Kondakapu. That the appellant also filed additional documents in support of his claim such as the community certificate of his brother and social status order of his maternal grandfather's elder brother and others in which it is mentioned that they are Konda Kapu Community. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the document pertaining to the father of the appellant with regard to the transfer certificate issued by the Head Master Pittapur Rajah's Collegiate School. Kakinada dated 11-03-1950 mentioned that the date of birth is 21.10.1934 and his caste is Konda Kapu and further the relatives of the appellant caste status clearly establishes that the caste of the father of the appellant and the relatives of the appellant are Kondakapus. A reading between the lines of the documents and on perusal of the same it is confirming that the father of the appellant was recognized as Konda Kapu prior to Indian independence. In the light of the above the appellant able to prove his claims that his caste is Kondakapu as such the caste of the appellant comes under ST Category. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri Illa Varah Narasimha Murthy S/o Surya Rao, by upholding his Scheduled Tribe (Konda Kapu) community claim and ST-Konda Kapu caste certificate issued by the then Assistant Director of District Survey and Land Records, Visakhapatnam and the Proceedings of the District Collector, Visakhapatnam issued in the reference 1st read above are set- aside.

7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter.

8. The records (containing (M) R.Dis.No.2093/2014/C5, dated 17.01.2017, pages NF:33 & CF:421 and (M) R.Dis. No.11873/1993/C5, dated 02.06.2004, pages NF: 03 & CF: 85) received from the District Collector, Visakhapatnam through the reference 5th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam.
(with original records) (BY RPAD)

Sri Illa Varah Narasimha Murthy, S/o Surya Rao,
Occ: Chargeman, Maintenance M/s Petroleum Corporation Ltd.,
Visakha Refinery,
Visakhapatnam -530 001.

M/s D.V.Nagarjuna Babu,
G. Chandrasekhar Rao,
G.V.Saradhi and T. Ratnakar, Advocates,
69/3RT, Vijayanagar Colony,
Hyderabad.

The Dy. Manager (I/c)-HR,
HPCL, Visakh Refinery,
Post Box No.15,
Visakhapatnam-530 011.

[Contd..on P.4]

Copy to:
The District Collector, East Godavari (for favour of information)
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER